

**Article 2: Administrative Code**

**Division 9: Contracts — Leases — Sales**

**§22.0901 Leases of Real Property**

Except as otherwise provided in the Charter, or by ordinance, the Council shall have the power to lease the real property of the City as follows:

No real property belonging to the City shall be leased except in pursuance of a resolution passed by a majority vote of all members of the Council, which shall contain the following:

- (a) The reason for leasing such real estate;
- (b) A description of the real estate to be leased;
- (c) A statement of the market value of such real estate as appraised by an independent fee appraiser or City staff.

Nothing in this section contained shall be deemed to apply to any lease for a term of three (3) years or less. The City Manager, at all times, shall have power, without advertising, notice, or competitive bidding, and upon such terms as he may deem proper, to lease any of the real property of the City of San Diego for a term of three (3) years or less provided, however, that no such lease, so made, shall be renewed without the approval of the Council. Rental agreements may be executed by the City Manager covering month-to-month tenant occupancy of City-owned residential housing or Brown Field Airport Incubator Industries and shall not be subject to the provisions of subparagraphs (a) through (c) of this section, and occupancy of the facilities under such agreements may exceed three (3) years without the approval of the Council.

*(Amended 4-11-1983 by O-15926 N.S.)*

**§22.0902 Sales of Real Property**

Except as otherwise provided in the City Charter, the Council shall sell the real property of the City in compliance with the requirements herein established. No real property belonging to the City shall be sold except in pursuance of a resolution passed by an affirmative vote of five members of the Council, which shall contain the following:

- (a) The reason for selling such real property;
- (b) A description of the real property to be sold;
- (c) A statement of the value of such property as disclosed by an appraisal made by a qualified real estate appraiser, who may be a professional appraiser or a qualified employee of the City of San Diego, together with the minimum amount the Council will consider for the sale of each parcel of property;
- (d) A statement that the City may at its discretion pay a real estate broker's commission under the provisions of Section 22.0905 for the sale of such real property;
- (e) A statement that the property will be sold by negotiation or by public auction, or by sealed bids, or by a combination of public auction, and sealed bids; providing, however, that in the event that such property is to be sold by negotiation, then the reasons therefore shall be included in the resolution.

*(Amended 7-2-1979 by O-12687 N.S.)*

### **§22.0903 Sales of Real Property— Requirements for Sale at Auction**

When real property belonging to the City is sold under the provisions of Section 22.0902 by public auction or by sealed bids or by a combination of public auction and sealed bids, whichever shall be recommended by the City Manager, then and in that event, a notice thereof shall be published for not less than three (3) consecutive days in the official newspaper, which notice shall contain a statement of the minimum price set by the Council for each parcel of property to be sold. The Council shall have the right to reject any and all bids provided for in this section. Real property belonging to the City may be put up for sale upon recommendation of the City Manager approved by the City Council. In the case of sale by auction or by sealed bid, the bid will not be less than the minimum amount fixed by the Council, pursuant to Section 22.0902(c). The public auction or the sale by sealed bids shall be conducted by the Real Estate Assets Department and shall be held at a location determined by the City Manager. At or before the making of a bid at an auction or sale by sealed bids the bidder must be identified, and the bidder's name and address must be registered with the Real Estate Assets Department. Before any bid can be received, the bidder must have deposited with the Real Estate Assets Department a certified check or cashier's check in the amount of not less than ten (10) percent of the required minimum acceptable price. The amount so deposited shall be applied to the purchase price of the property if the City Council approves the sale to that bidder. Within ten (10) days of the approval of the sale by the City Council, the successful bidder and City shall formally open escrow with specific executed instructions that provide the date for payment of balance of the

bid and delivery of the executed deed. In the event the bidder becomes the Council–approved purchaser of the property, the Real Estate Assets Department shall cause the sum to be deposited in the City Treasury, and the sum shall be applied to the purchase price. However, if the City does not have a marketable title to the real property or if the property is not sold to that bidder, the Real Estate Assets Department shall return the deposit to the person from whom the deposit was received. If, after the City Council approves the sale to the bidder, the bidder refuses or is unable to proceed with consummation of the property transfer, the deposit shall be forfeited to City as liquidated damages to reimburse City for its cost of processing the bid and proposed sale.

*(“Sales of Real Property— Requirements for Sale at Auction” renumbered from Sec. 22.0902.1 and amended 3–7–1994 by O–18042 N.S.)*

#### **§22.0904 Exchanges of Real Property**

No real property belonging to the City shall be exchanged for other real property except in pursuance of a resolution, passed by an affirmative vote of five members of the Council, and containing the following:

- (a) The reason for exchanging such real property.
- (b) The description of the real property to be conveyed by the City.
- (c) The identification of the real property to be conveyed to the City.
- (d) A statement of the value of the real property to be conveyed by the City as disclosed by the report of a qualified real estate appraiser.
- (e) A statement of the value of the real property to be conveyed to the City as disclosed by the report of a qualified real estate appraiser.
- (f) When such valuation is disproportionate, a statement of the consideration to be paid to the owner of the higher valued property.
- (g) A statement that the interest being exchanged is either fee or easement. If the exchange involves easement interests only and the easement interests to be exchanged are approximately equal, subsections (d), (e) and (f) may be omitted from the resolution. If subsections (d), (e) and (f) are omitted, the resolution shall contain a statement that the City Manager certifies that the easement interests to be exchanged are approximately equal in value.

The quitclaim deed or grant deed of the City shall not be delivered to the grantee until the City shall have received the consideration if any to be paid to the City and the deed conveying the property as required by the City.

*(“Exchanges of Real Property” renumbered from Sec. 22.0902.2 and amended 3-7-1994 by O-18042 N.S.)*

## **§22.0905 Real Estate Broker’s Registration and Fee**

- (a) Whenever the City Council by resolution determines to pay a real estate broker’s commission (fee) in connection with the lease of City-owned real property as provided in Section 22.0901 or in connection with the sale of City-owned real property as provided in Section 22.0902, the commission payment will be made to the broker who meets all of the following conditions:
  - (1) The broker holds a valid State of California real estate broker’s license; and
  - (2) Both the broker’s and client’s name and address are registered with the City Real Estate Assets Director, together with written confirmation by the client that the broker is authorized to represent the client for a specified property:
    - (A) No later than the normal working day preceding the date fixed for the auction sale, or
    - (B) In the case of a non-auction transaction, No later than the date of the first offer to lease or purchase or the date of the request to open negotiations to lease or purchase, whichever first occurs.
- (b) A broker who is a principal in the sale or lease transaction shall not be entitled to a commission. For purposes of this section, principals include officers, directors, shareholders, partners and other financial equity holders as determined by the City Manager at his sole discretion.
- (c) The City of San Diego shall pay a real estate broker’s sale or lease commission pursuant to a commission schedule adopted by resolution of the Council which is in effect at the time the sale or lease is presented for final Council approval.
- (d) The City Council shall have the right in every instance to reject any and all bids in any sale or any offer for any lease of City-owned real property without cause or liability and, in the event of such rejection, the City shall not be

obligated to pay any broker's fee whatsoever. The intent of Section 22.0905(d) is to make the payment of any real estate commission absolutely contingent upon the acceptance of the bid or of the negotiated agreement and the complete consummation of the sale or lease, including, in the case of a sale, receipt by the City of the full purchase price. A broker who is not registered with the City's Real Estate Assets Director as required under Section 22.0905(a) shall not be entitled to a commission from the City.

- (e) Any dispute between brokers as to which broker is entitled to receive the broker's commission shall be decided by the City Manager, in accordance with recognized real estate industry arbitration procedures as set forth in the California Code of Civil Procedure.
- (f) If a commission is due and payable to any real estate broker as provided in Section 22.0905, the City shall pay the same out of the money received as the purchase price of the property sold or out of the money received as lease payments.
- (g) When the amount of purchase price or rental offered is a criterion for selecting a purchaser or lessee of City property in a competitive situation, the City will consider the highest net purchase price or highest net rental offered, taking into account any brokerage fee involved.

*(Amended 3-7-1994 by O-18042 N.S.)*

## **§22.0907 Sales of Real Property to Public Agencies**

Subject to the provisions of Section 219 of the Charter of the City of San Diego, whenever the Council shall find that lands belonging to the City are required for public purposes, the said Council may, by resolution, authorize the sale of any of said lands to any political subdivision, or public agency, without advertising for bids and without regard for any of the provisions of Section 22.0902; provided, however, that the sale shall be at such price and upon such terms as the Council shall deem to be fair and equitable and in the public interest.

The City Attorney is authorized to settle any eminent domain action brought by another public agency to acquire City property under the following conditions:

- (a) The value of the property to be conveyed is \$50,000 or less; and
- (b) the value is established by appraisal satisfactory to the City Manager.

*(Amended 1-31-1994 by O-18032 N.S.)*

